

251.451 Surety bond, certificate of deposit, or letter of credit required.

- (1) Each warehouseman shall file with the department a surety bond issued by a surety company authorized to transact business within the Commonwealth of Kentucky, payable to the Commonwealth with the Commissioner as trustee. A warehouseman may file with the department, in lieu of a surety bond, a certificate of deposit payable to the Commissioner, as trustee, or an irrevocable letter of credit on forms prescribed by the Commissioner. The principal amount of the certificate or letter of credit shall be the same as that required for a surety bond under this section, and the interest thereon, if any, shall be made payable to the purchaser. The amount of the bond for a warehouseman shall be established by rule of the department, but in no event shall the sum be less than twenty-five cents (\$0.25) per bushel of the total maximum bushel capacity of the warehouse or ten thousand dollars (\$10,000), whichever is greater.
- (2) The bond shall be conditioned on the faithful performance of duties as an operator and the full and unreserved compliance with the laws of this state and the rules of the department in relation thereto, so that the depositors holding warehouse receipts, contracts, or other documented evidence of stored grain may receive the benefit of the bond. The aggregate liability of the surety to all depositors shall in no event exceed the sum of the bond. Neither the issuance of warehouse receipts by a warehouseman to himself for grain owned in whole or in part by him, the commingling of grain owned by the warehouseman with grain stored for others, or any violation by a warehouseman of KRS 251.420 to 251.510 or of the rules and regulations issued by the department shall constitute a defense in any action brought upon any bond, and all such bonds shall so provide. Maximum capacity of a warehouse shall be determined by dividing the cubic volume of all bins by two thousand one hundred fifty and forty-two one hundredths (2,150.42) cubic inches. The bond shall be kept in force at all times while the operator is conducting a warehouse. Failure to keep the bond in force shall be cause for revocation of the license and subjects the warehouseman to the criminal penalty provided in KRS 251.990. Each bond shall contain a provision that it may not be canceled by either the surety or the principal except upon sixty (60) days' notice in writing to the department at its offices in Frankfort. The notice shall not affect the liability accrued or that which may accrue under the bond before the expiration of the sixty (60) days. The department may require additional bond where the assets of any warehouseman appear insufficient, when compared to his storage obligations, or to meet the bond requirements of the United States or any agency or corporation controlled by the United States when they have a contract for storage with the warehouseman. The additional bond shall be a dollar amount equal to the insufficiency. Failure to post such additional bond shall constitute grounds for suspension or revocation of a license issued under KRS 251.430.

Effective: July 13, 1990

History: Amended 1990 Ky. Acts ch. 396, sec. 2, effective July 13, 1990. -- Created 1984 Ky. Acts ch. 389, sec. 16, effective July 13, 1984.